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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,434	12/10/2003	Christoph Gouguenheim	200207237-1	2133

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FORT COLLINS, CO 80527-2400

EXAMINER
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LASHLEY, LAUREL L

ART UNIT	PAPER NUMBER
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2132

MAIL DATE	DELIVERY MODE
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07/03/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/733,434

Applicant(s)

GOUGUENHEIM ET AL.

Examiner

Laurel Lashley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/10/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1 – 36 are pending and have been examined.

#### ***Drawings***

2. The drawings are objected to because Fig. 3, item 310 incorrectly recites "identifies" instead of --identifies--. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 – 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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4. Independent Claims 1 and 36 recite the limitation "the first key", "the insecure device", and "the second key". There is insufficient antecedent basis for these limitations in the claims. Claims dependent on claim 1 also recite one or all of the above limitations and are therefore rejected too.

Independent Claims 11, 19 and 28 recites the limitation "the first key", and "the second key". There is insufficient antecedent basis for these limitations in the claims. Claims dependent on claims 11, 19 and 28 also recite one or all of the above limitations and are therefore rejected too.

Independent Claim 17 recites the limitation "the first cryptographic key", "the first key", and "the identifier". There is insufficient antecedent basis for these limitations in the claim. Claims dependent on claim 17 also recite one or all of the above limitations and are therefore rejected too.

Independent Claim 17 recites the limitation "the first cryptographic key", "the first key", and "the identifier". There is insufficient antecedent basis for these limitations in the claim. Claims dependent on claim 17 also recite one or all of the above limitations and are therefore rejected too.

Independent Claim 26 recites the limitation "the insecure device". There is insufficient antecedent basis for this limitation in the claim.

Claim 30 recites the limitation "the secure device". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 – 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Kocher et al. in US Patent No. 6289455 (hereinafter US '455).

6. For claim 1 and similar claims 11, 17, 19, 26, 28 and 36, US '455 discloses:

A secure token (see column 8, lines 12 – 16) for use with an encrypted file (see column 8, lines 1 – 7) and an insecure decryption device (see column 8, lines 22 – 28), the secure token comprising a processor for protecting a first cryptographic key against unauthorized access (see column 8, lines 52 – 55), and creating a second cryptographic key (see column 7, lines 46 – 47) from the first key and a message unique (see column 8, lines 17- 28) to the insecure device, the second key usable for file decryption by the insecure device. (see Abstract: rights key used to authorized usage; column 9, lines 42 – 52: content decryption key comprising and key derivation message and rights key used to decrypt digital content; column 11, lines 33 – 65 : accessing content)

For claim 2 and similar claims 30 and 31, US '455 discloses:

The secure token of claim 1, wherein the secure token includes a smart card, the smart card including the processor. (see column 8, lines 12 – 16)

For claim 3 and similar claim 20, US '455 discloses:

The secure token of claim 1, wherein the processor uses a hash function to create the second key from the message and the first key. (see column 8, lines 52 – 55: rights key required...; column 11, lines 59 - 60: hash function)

For claim 4 and similar claims 12, 18, 21, and 33 US '455 discloses:

The secure token of claim 1, wherein the secure token performs an electronic transaction to obtain the first key. (see column 8, lines 45 – 50)

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For claim 5 and similar claims 13 and 22, US '455 discloses:

The secure token of claim 4, wherein the secure token conducts a transaction with a server to purchase a desired file; and wherein the secure token receives the first key from the server (see column 9, lines 1 – 6; column 10, lines 50 – 55).

For claim 6 and similar claims 14 and 23, US '455 discloses:

The secure token of claim 4, wherein the secure token conducts a transaction with a peer to purchase a file; and wherein the secure token receives the first key from the peer (see column 9, lines 1 – 6; column 10, lines 50 – 55).

For claim 7 and similar claims 15 and 24, US '455 discloses:

The secure token of claim 4, wherein the secure token conducts a transaction with a peer to sell a file; and wherein the secure token sends the first key to the peer (see column 7, lines 65 – 67: device key; column 9, lines 1 - 6).

For claim 8 and similar claims 16 and 25, US '455 discloses:

The secure token of claim 7, wherein the secure token creates a third key that is unique to the peer, and sends the third key to the insecure device and the peer (see column 7, lines 65 – 67: device key; column 9, lines 1 – 6).

For claim 9 and similar claim 27, US '455 discloses:

The secure token of claim 1, further comprising means for receiving the first key and encrypted data (see column 22, lines 35 – 40), wherein the insecure device uses the second key to decrypt the encrypted data (see column 9, lines 42 – 52: playback decrypts content with content decryption key).

For claim 10 and similar claim 34, US '455 discloses:

The secure token of claim 1, wherein processing power of the secure token is significantly less than processing power of the insecure device. (see column 4, lines 23 – 27)

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For claim 29, US '455 discloses:

The system of claim 28, wherein the message is unique to the insecure device. (see column 8, lines 18 – 21)

For claim 35, US '455 discloses:

The system of claim 28, further comprising a peer-to-peer application for identifying peers having desired files. (see column 9, lines 7 – 15)

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Scheidt et al. in US Patent No. 7178025 discloses an access system utilizing multiple factor identification and authentication. Noguchi et al. in US PGPub No. 2003/0005333 discloses a system and method for access control. Wiser et al. in US Patent No. 6868403 discloses a secure online music distribution system
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurel Lashley whose telephone number is 571-272-0693. The examiner can normally be reached on Monday - Thursday, alt Fridays btw 7:30 am & 5 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron, Jr. can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laurel Lashley  
Examiner  
Art Unit 2132

 22 June 2007  
LLL

  
Benjamin E. Carter  
Examiner Art Unit 2132